

27699
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State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
901 P Street, Sacramento, CA 95814
P.O. Box 2000, Sacramento, CA 95812-2000

**REQUEST FOR DIVISION OF PERMIT WITH ISSUANCE OF
LICENSE AND CONTINUATION PERMIT**

APPLICATION 27699

PERMIT 20208

In accordance with the provisions of State Water Resources Control Board (SWRCB) Order WR 96-002, and the Condition 12 Settlement Agreement (Agreement) dated March 10, 1995, the undersigned hereby requests, subject to SWRCB approval, issuance of a License and Continuation Permit as set forth below. Said License and Continuation Permit will replace the existing permit. The appropriation will be thus divided and the original permit will be revoked.

OWNER OF RECORD:

Mailing Address

Steve Strickler
17140 Highway 175
Middletown, CA 95461

*Whispering Pines Water Co.
P.O. Box 1079
Cobb, Ca 95426*

LICENSE REQUESTED AS FOLLOWS:

APPLICATION 27699A

PERMIT 20208A

HAVING MADE PROOF AS OF June 19, 1996 (THE DATE OF INSPECTION)

ACCORDING TO THE BEST KNOWLEDGE AND BELIEF OF THE UNDERSIGNED, A RIGHT HAS BEEN ESTABLISHED PRIOR TO DECEMBER 31, 1995 TO USE OF THE WATERS OF
an Unnamed Spring in Lake County
tributary to an Unnamed Stream thence Putah Creek thence Lake Berryessa

FOR THE PURPOSE OF: *Industrial use*

UNDER PERMIT 20208, THE PRIORITY OF WHICH DATES FROM April 1, 1983

BY BENEFICIAL USE IN THE AMOUNT OF: (a) four thousand nine hundred (4,900) gallons per day to be diverted from November 15 of each year to March 15 of the succeeding year and (b) seven thousand eight hundred (7,800) gallons per day to be diverted from March 16 to November 14 of each year. The maximum amount diverted under this license shall not exceed 5.6 acre-feet per year.

The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time provided there be no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed. (0000027)

*\$3000 - Special Putah Creek
Reimbursement 8/21/97*

2,100 Diversion Permit Reimbursement 8/21/97

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

South 1,270 feet and West 3,000 feet from NE corner of Section 14, T11N, R8W, MDB&M, being within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 14.

DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

At Whispering Pines bottling plant within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 14, T11N, R8W, MDB&M.

Licensee shall install and maintain devices satisfactory to the State Water Resources Control Board to measure the daily quantity of water diverted under this license. A record of the daily measurements shall be maintained by the licensee, made available upon reasonable request, and a copy submitted to the State Water Resources Control Board with triennial Report of Licensee.

Licensee shall allow Zack Anderson, or his designated representative, reasonable access to the measuring devices for the purpose of verifying measurement records.

It is agreed that the following terms and conditions derived from the Agreement will be included in the License:

Licensee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

(1) Licensee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this license for noncompliance with the terms of the Agreement.

(2) Diversion of water under this license shall be subject to the watermaster appointed by the court to enforce the terms of the Agreement. The licensee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.

(3) Licensee may employ existing methods or means of measurement (or alternatively any other standard means of measurement normally acceptable or satisfactory to the SWRCB in its administration of appropriative water rights) for determining the amount of water directly diverted under this license, unless otherwise specified by the Agreement.

(4) Licensee shall install at licensee's own cost such additional or other measurement devices as are necessary to measure actual depletions, if the watermaster determines that additional measures are necessary, consistent with Section 3.A.3 (Measuring Devices) of the Agreement.

(5) Licensee shall report to the watermaster annually, on or about September 1, the amount of water directly diverted under this license. Such annual reports shall be made in writing on forms approved by the watermaster.

(6) Licensee shall allow the watermaster reasonable access to the project covered by this license to inspect measuring equipment and to verify compliance to terms and conditions of the Agreement, upon 48-hour prior notice and upon such reasonable conditions as licensee may prescribe.

(7) Licensee is hereby put on notice that there may be years when diversion of water under this license will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this license.

(8) In the event Allowable Depletion is exceeded in any year, licensee shall curtail direct diversions of water during ensuing seasons until the amount of the exceedence is paid back consistent with the repayment provisions of the Agreement. (Agreement pp. 9, 10, and 11)

(9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, licensee shall have three years, starting in the next Accumulation Season, to make up or repay licensee's excess diversions; or (2) does not reach 640,000 acre-feet of storage as of May 1, licensee shall have one year, starting in the next Accumulation Season, to make up or repay licensee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, licensee shall be excused from any further obligation for repayment of the overage.

(10) Licensee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.

(11) Licensee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the license.

(12) Licensee is hereby put on notice of licensee's right, upon reasonable prior notice, to inspect and to copy, at licensee's own expense, all records and reports of the watermaster.

Inclusion in the license of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this license.

(0000024)

The State Water Resources Control Board (SWRCB) shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this license to delete, revise, amend, or adopt new terms or conditions to:

(1) implement the March 10, 1995 Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.

(0000012)

THIS REQUEST FOR LICENSE IS MADE SUBJECT TO SWRCB APPROVAL OF ANY REQUIRED PETITION AND, IF ANY REDUCTION IN AMOUNT, SEASON, OR LAND DESCRIPTION BECOMES NECESSARY WHEN THE CALCULATIONS ARE CHECKED, THE OWNER WILL BE NOTIFIED AND ALLOWED 30 DAYS WITHIN WHICH TO PROTEST SUCH CHANGES.

CONTINUATION PERMIT REQUESTED AS FOLLOWS:

APPLICATION 27699B

PERMIT 20208B

THE UNDERSIGNED DESIRES THE OPPORTUNITY TO DEVELOP A RIGHT, SUBJECT TO THE AVAILABILITY OF WATER IN THE UPPER PUTAH CREEK REMAINING RESERVATION FOR Lake COUNTY AND COMPLIANCE WITH EXHIBIT C OF THE AGREEMENT AS DETERMINED BY THE WATERMASTER, AND SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS, TO THE USE OF THE WATERS OF

an Unnamed Spring in Lake County

tributary to an Unnamed Stream thence Putah Creek thence Lake Berryessa

FOR THE PURPOSE OF: *Industrial use*

UNDER CONTINUATION PERMIT 20208B

THE PRIORITY OF WHICH DATES FROM April 1, 1983

THE WATER APPROPRIATED WILL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED AND SHALL NOT EXCEED (a) *thirty thousand one hundred (30,100) gallons per day to be diverted from November 15 of each year to March 15 of the succeeding year and (b) seven thousand two hundred (7,200) gallons per day to be diverted from March 16 to November 14 of each year. The maximum amount diverted under this permit shall not exceed 19.4 acre-feet per year.*

The equivalent of such continuous flow allowance for any 30-day period may be diverted in a shorter time provided there be no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed. (0000027)

THE POINT OF DIVERSION OF SUCH WATER WILL BE LOCATED:

South 1,270 feet and West 3,000 feet from NE corner of Section 14, T11N, R8W, MDB&M, being within SE¼ of NW¼ of said Section 14.

DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

At Whispering Pines bottling plant within NW¼ of NE¼ of Section 14, T11N, R8W, MDB&M.

Permittee shall install and maintain devices satisfactory to the State Water Resources Control Board to measure the daily quantity of water diverted under this permit. A record of the daily measurements shall be maintained by the permittee, made available upon reasonable request, and a copy submitted to the State Water Resources Control Board with annual Progress Report by Permittee.

Permittee shall allow Zack Anderson, or his designated representative, reasonable access to the measuring devices for the purpose of verifying measurement records.

It is agreed that the following terms and conditions derived from the Agreement will be included in the Permit:

Permittee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

(1) Permittee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this permit for noncompliance with the terms of the Agreement.

(2) Diversion of water under this permit shall be subject to the watermaster appointed by the court to enforce the terms of the Agreement. The permittee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.

(3) Permittee shall maintain a device, satisfactory to the SWRCB, which is capable of measuring water directly diverted under this permit. A satisfactory device includes: For Pumping Stations: (1) In-line flow meter having instantaneous and total flow reading capability, or (2) Proof of a pump test performed within the last 5 years together with official monthly power consumption records for the electric meter serving the pump. For Gravity Diversions: A weir, flume, or other flow measuring device that is properly installed, or a flow-rating curve established by volumetric measurements.

(4) Permittee shall maintain monthly records of direct diversion from March 1 to July 15 of each year, or such other period as may be specified with written notice to the permittee by the watermaster.

(5) Permittee shall report to the watermaster annually, all diversions under this permit by September 1 of each year on forms approved by the watermaster.

(6) Permittee shall allow the watermaster reasonable access to the project covered by this permit to inspect measuring equipment and to observe compliance with these permit terms and conditions, upon 48-hour prior notice and upon such reasonable conditions as permittee may prescribe.

(7) Permittee is hereby put on notice that there may be years when diversion of water under this permit will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this permit, and that releases of stored water may be required.

(8) Permittee is hereby put on notice that the waiver of priority granted by Reclamation and Solano County Water Agency provides that in the event Allowable Depletion is exceeded in any year, water diverted to storage that year shall be released and/or direct diversions shall be curtailed during the ensuing season(s), when applicable, to the extent necessary to bring the Allowable Depletion into compliance, in the following order:

a. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights in excess of 120 percent of that water right holder's previous five-year average, in reverse order of water right priority.

b. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights above the previous five-year average diversion, in reverse order of priority.

c. All remaining water directly diverted and/or diverted to storage that year by holders of Post-Reservation Water Rights in reverse order of priority.

(9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, permittee shall have three years, starting in the next Accumulation Season, to make up or repay permittee's excess diversions; or (2) does not reach 640,000 acre-feet of storage as of May 1, permittee shall have one year, starting in the next Accumulation Season, to make up or repay permittee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, permittee shall be excused from any further obligation for repayment of the overage.

(10) Permittee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.

(11) Permittee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the permit.

(12) Permittee is hereby put on notice of permittee's right, upon reasonable prior notice, to inspect and to copy, at permittee's own expense, all records and reports of the watermaster.

(13) Solely for purposes of administering Post-Reservation Depletion, the average annual depletion assigned to this project is _____ acre-feet per annum as calculated by the watermaster using information described in Exhibit C of the Condition 12 Settlement Agreement. Permittee shall notify the watermaster of any change in crop type, acreage irrigated, and irrigation method. Any change in water usage which results in an increase in average annual depletion of more than 10 percent for non-weather related reasons, as determined by the watermaster, will require filing a new water right application. (Agreement pp. 13-15, Exhibit E)

Inclusion in the permit of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit. (0000024)

The State Water Resources Control Board (SWRCB) shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this permit to delete, revise, amend, or adopt new terms or conditions to:

(1) implement the March 10, 1995, Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.

(0000012)

PLEASE NOTE BEFORE SIGNING:

(1) Any necessary petition(s) for change or extension of time must be filed separately on standard forms provided by the Division of Water Rights. In order for a single petition and fee to apply to both the license and continuation permit, the petition and fee must be submitted prior to or concurrent with this request.

(2) As signatory to the March 10, 1995 Condition 12 Settlement Agreement, I acknowledge that the SWRCB will not process this request until the following additional fees are paid, and that this request will be dismissed if the SWRCB does not receive all required fees within six months from the date this request is mailed.

IN ACCORDANCE WITH SECTION 4I OF AGREEMENT, THE FOLLOWING FEES ARE REQUIRED:

\$2,100.00 DIVISION OF PERMIT AND REINSPECTION FEE
\$ 300.00 SPECIAL PUTAH CREEK EXTENSION FEE
\$2,400.00 TOTAL FEES

(FEES MADE PAYABLE TO: STATE WATER RESOURCES CONTROL BOARD)

Signature

Steve Strickle

Permittee or his Representative

Date

March 12 1997

*\$300.00 Special Putah Creek Extension
\$2100.00 Division of Permit
& Reinspection Fee
8/21/97
\$2400.00
GL*



Cal/EPA

**State Water
Resources
Control Board**

**Division of
Water Rights**

Mailing Address:
P.O. Box 2000
Sacramento, CA
95812-2000

901 P Street
Sacramento, CA
95814
(916) 657-1931
FAX (916) 657-1485

SO
27699



Pete Wilson
Governor

In Reply Refer
to:341:SO:2769

FEBRUARY 21 1997

Mr. Steve Strickler
17140 Highway 175
Middletown, CA 95461

Dear Mr. Strickler:

PERMIT 20208 (APPLICATION 27699) AN UNNAMED STREAM IN
LAKE COUNTY

With his letter of November 25, 1996, Harry O'Leary of our staff had sent you a Request for Division of Permit with Issuance of License and Continuation Permit form for your signature. Mr. Mike Mullin of your staff informed our office by telephone on February 20, 1997 that the diversion rates for the Continuation Permit were incorreccted. We have corrected the error on the enclosed revision of the form. If you concur, please sign, date, and return this form with any required special fees.

If you have any questions, please write or call me at
(916) 657-1931.

Sincerely,

Shige Okada, Chief
Permit and License Unit

Enclosure

cc: Upper Putah Creek Watershed Watermaster w/encl.
Marc Van Camp, Watermaster
1616 - 29th Street, Suite 300
Sacramento, CA 95816



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Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20208Application 27699 of Steve Strickler17140 Highway 175 Middletown, CA 95461filed on April 1, 1983, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Unnamed Spring

Tributary to:

Unnamed Stream thencePutah Creek thenceYolo Bypass

2. Location of point of diversion:

	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
South 1,270 feet, East 2,300 feet from the NW corner of Section 14	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	14	11N	8W	MD

County of Lake

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Industrial	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	14	11N	8W	MD	

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed: 35,000 gallons per day by direct diversion from November 15 of each year to March 15 of the succeeding year and 15,000 gallon per day by direct diversion from March 16 to November 14 of each year. The maximum amount diverted under this permit shall not exceed 25 acre-feet per year.

(0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

7. Complete application of the water to the authorized use shall be made by December 31, 1991.

(0000009)

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

(0000010)

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

10. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

12. Permittee shall install and maintain a device satisfactory to the State Water Resources Control Board to measure the daily quantity of water diverted under this permit. A record of the daily measurements shall be maintained by the permittee, made available upon reasonable request, and a copy submitted to the State Water Resources Control Board with the annual Progress Report by Permittee.

(0100908)

12. Permittee shall allow Zack Anderson, or his designated representative, reasonable access to the measuring device for the purpose of verifying the measurement records.

00R001
(0480908)

13. Permittee is hereby put on notice that there may be years when diversion of water under this permit will not be within the reservation of water established for the watershed upstream from Lake Berryessa in Decision 869. During the portion of such years that, in the absence of permittee's diversion, hydraulic continuity would exist between the permittee's diversion point and Lake Berryessa, permittee shall not make any diversion and shall allow all stream-flow at his diversion works to pass undiminished to the downstream channel, unless replacement water is provided on an exchange basis. Nothing in this condition, however, shall preclude permittee from diverting water under any prior right.

(0220086)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MARCH 15 1988

STATE WATER RESOURCES CONTROL BOARD

Walter J. Pettit
Chief, Division of Water Rights